

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DISTRICT**

RONALD WALKER, JR

PLAINTIFF

VS

CIVIL ACTION NO.: 3:19-cv-497-CWR-LRA

**AMICA GENERAL AGENCY, LLC;
MARY MCLAURIN; GEICO
INSURANCE AGENCY, INC., JOHN
DOE 1&2**

DEFENDANTS

DEFENDANT'S NOTICE OF REMOVAL OF CIVIL ACTION

COMES NOW, AMICA MUTUAL INSURANCE COMPANY, improperly named as AMICA GENERAL AGENCY, LLC, by and through its counsel of record, Deutsch Kerrigan, L.L.P., and pursuant to 28 U.S.C. §1332, §1441 and §1446, hereby files this Notice of Removal of this action from the County Court of the Hinds County, Mississippi, First Judicial, to the United States District Court for the Southern District of Mississippi, Northern Division, stating as follows:

1. **Removal.** Defendant Amica Mutual Insurance Company, improperly named as Amica General Agency, LLC ("Amica") hereby removes this civil action from the County Court of the Hinds County, Mississippi, First Judicial to the United States District Court for the Northern District of Mississippi, Aberdeen Division, pursuant to 28 U.S.C. § 1441(a).

2. **The State Court Action.** *Ronald Walker, Jr. v. Amica General Agency, LLC, Mary McLaurin, Geico Insurance Agency, Inc., John Doe 1&2*, Civil Action No.: 25CO1:19-cv-02618-LCS, was filed in the County Court of the Hinds County, Mississippi, First Judicial, on June 25, 2019, by Plaintiff Ronald Walker, Jr. by and through his attorney Tiffany Horton-Williams. Said complaint contains causes of action alleging various torts including intentional

inflection of emotional distress, negligence, negligence per se, and insurance bad faith. He seeks compensatory and punitive damages in an amount no greater than \$200,000.00.

3. **Filings in State Court.** The Summons and Complaint in the state court action constitute the entirety of the filings in State Court and are attached to this notice as Exhibit "A".

4. **Propriety of Removal.** This removal is proper under 28 U.S.C. § 1441(a). The state court action could have been brought in the United States District Court as a diversity action with alleged damages meeting or exceeding the jurisdictional requirements for removal under 28 U.S.C. §§ 1332 and 1441(a). This action is properly removed under 28 U.S.C. § 1441(a) to the Northern District of Mississippi, Aberdeen, as the district and division embracing the County Court of Hinds County, Mississippi where the state court action is pending.

5. **Diversity.** Diversity is complete. The plaintiff is a Mississippi resident and the Defendants are Amica Mutual Insurance Company, improperly named as Amica General Agency, LLC, a foreign insurance company whose principal place of business is in Rhode Island and GEICO Insurance Agency, a foreign insurance company whose principal place of business is in Maryland. The sole remaining defendant is Mary McLaurin, alleged to be a resident of Mississippi, misjoined or fraudulently joined in this matter, as the substance of the complaint alleges bad faith by the non-resident insurers in failing to pay and resolve a liability insurance claim and that Defendant McLaurin's actions should either have been resolved by her GEICO Insurance or by Amica, Plaintiff's insurer for uninsured motorists' benefits. Plaintiff does not genuinely seek damages from Defendant McLaurin and has no expectation of recovery from her. As an example of this, the Complaint alleges Defendant McLaurin gave insurance information to the accident scene police officer indicating she was insured by GEICO (§ 13) , that Defendant GEICO denied coverage to Plaintiff for McLaurin's liabilities (§ 41) and that Defendant Amica,

plaintiff's insurer, failed to properly resolve Plaintiff's insurance claim. (§ 15, 42). None of these actions reflect any real claim against the Mississippi resident defendant who has been misjoined in this matter. Additionally, Amica has learned the plaintiff has entered into a consent dismissal of GEICO and GEICO will not be providing a defense or indemnity for McLaurin, making McLaurin truly an uninsured driver and someone from whom there is no reasonable expectation of recovery, hence the claim for uninsured motorist benefits against Amica.

6. **Amount in Controversy.** Plaintiff seeks damages "not to exceed \$200,000.00," consisting of compensatory and punitive damages. As such, her demand exceeds the jurisdictional minimum of \$75,000.00. These contentions are set forth twice in Paragraph 6 of the Complaint, repeated with emphasis therein.

7. **Timeliness.** Pursuant to 28 U.S.C. §1446(b), this notice of removal is filed within thirty days of notice to the Defendant of the subject lawsuit. See Exhibit "A".

8. **Consent to Removal by All Defendants.** None of the other defendants have made appearances in the case to date. An order of dismissal for GEICO has been submitted to the court. Confirmation of consent will be obtained upon the appearance of Defendant McLaurin, if and when served.

9. **Notice to Others.** Pursuant to 28 U.S.C. §1446, attached as Exhibit "B" is a notification to the state court of this removal. Attached as Exhibit "A" are copies of the Summons and Complaint which are the only process, pleadings, and orders served upon Defendant in the state court action. Pursuant to Rule 5(b) of the Local Uniform Civil Rules of the United States District Courts for the Northern District of Mississippi and the Southern District of Mississippi, a complete copy of the state court record in the civil action will be

electronically filed as a single docket item no later than fourteen (14) days after the docketing of this Notice of Removal.

10. **Demand for Jury Trial.** Plaintiff's Complaint includes a demand for trial by jury.

WHEREFORE, Amica removes this action to the United States District Court for the Southern District of Mississippi, Northern Division.

Respectfully submitted this the 18th day of July, 2019.

AMICA MUTUAL INSURANCE COMPANY
Defendant



BY: R. Douglas Vaughn (#99404)


DEUTSCH KERRIGAN, L.L.P.
2510 14th Street, Suite 1001
Gulfport, MS 39501
Telephone: (228) 864-0161
dvaughn@deutschkerrigan.com
Counsel for Defendant

CERTIFICATE OF SERVICE

I, R. Douglas Vaughn, hereby certify that on this day I filed the foregoing pleading or other paper with the Clerk of the Court and sent a copy of same to the following:

Tiffany Horton-Williams
Horton-Williams Law Firm, PLLC
P.O. Box 720653
Byram, MS 39272
Telephone: 769-251-5785
Fax: 769-251-5152
attyhortonwilliams@gmail.com
Attorney for the Plaintiff

This, the 18th day of July, 2019.



R. Douglas Vaughn